

DOCKET NO.: FST-CV-18-6037524-S	:	SUPERIOR COURT
	:	
NILOY SHAH, KHAN KHURSHEET,	:	
VIKAR VAHORA, AAMIR KADRI,	:	
SHEIKH KEMAL CECUNJANIN AND AL	:	
MADANY ISLAMIC CENTER OF	:	
NORWALK, INC.	:	J.D. OF STAMFORD/NORWALK
	:	
v.	:	AT STAMFORD
	:	
AZRA ASSADUDIN, MUSHTER MOIN,	:	
IRFAN VAHORA, AND KHALID	:	
BELHABIB	:	July 5, 2019

### **APPLICATION FOR TEMPORARY INJUNCTION**

Pursuant to Connecticut General Statutes § 52-471 *et. seq.*, the Counterclaim Plaintiffs Azra Asaduddin, Mushter Moin, Irfan Vahora and Khalid Belhabib (collectively, “Counterclaim Plaintiffs”), by and through their undersigned counsel, hereby request an order immediately reinstating the Counterclaim Plaintiffs to their positions on the Board of Directors (the “Board”) of the Al Madany Islamic Center of Norwalk, Inc. (“Al Madany”) and that the appointments of any persons to the Board allegedly as successors to the Counterclaim Plaintiffs are ordered vacated, and null and void.

#### **I. FACTUAL BACKGROUND<sup>1</sup>**

The Board is made up of nine directors. Counterclaim Defendants are Al Madany and five individuals that serve on the Board, Niloy Shah, Khursheed Khan, Vikar Vahora, Aamir Kadri, and Kemal Cecunjanin. Counterclaim Plaintiffs are the remaining four members that serve on the Board. On or about July 5, 2018, it was discovered that one of the Counterclaim Defendants, Niloy Shah, had been convicted of a felony larceny in 2014. Counterclaim Plaintiffs requested special board meetings to discuss this newly discovered information that Mr. Shah, the

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<sup>1</sup> All facts are supported by the Verified Counterclaim filed herewith.

purported President of the Al Madany, was convicted of 3<sup>rd</sup> degree larceny and had not i) disclosed this information when he ran for election to the Board and ii) provided false and misleading information to the board about his conviction when it was discovered. Specifically, on July 6, 2018, Counterclaim Plaintiff, Mushter Moin, sent an email to the board members disclosing that Mr. Shah had been convicted of 3<sup>rd</sup> degree larceny. Mr. Moin requested a special meeting of the Board to discuss the ramifications of Mr. Shah's conviction and his failure to disclose it. On July 7, 2018, another Counterclaim Plaintiff, Irfan Vahora, requested a special board meeting to address the same issue.

Having received no response to these requests, Counterclaim Plaintiff and Assistant Secretary of Al Madany, Azra Asaduddin, sent an email to all board members noticing a special meeting of the board members to be held on Tuesday July 10, 2018. The purpose of the special meeting was to discuss the issue of removing Mr. Shah from the board of directors. The individual Counterclaim Defendants did not attend the July 10<sup>th</sup> special meeting. Ms. Asaduddin sent an email to all members of the Board indicating that the July 10<sup>th</sup> meeting was adjourned for lack of a quorum and that the meeting would reconvene on July 11<sup>th</sup> at 6:00 p.m. None of the Counterclaim Defendants appeared for the July 11<sup>th</sup> special meeting either. Ms. Asaduddin sent another email indicating that the July 11<sup>th</sup> meeting was adjourned for lack of a quorum and that the meeting would reconvene on July 12<sup>th</sup> at 6:00 p.m. None of the Counterclaim Defendants appeared for the July 12<sup>th</sup> special meeting. Ms. Asaduddin sent a third email indicating that the July 12<sup>th</sup> meeting was adjourned for lack of a quorum.

Counterclaim Defendants purposefully and willfully decided not to attend any of these meetings. During this time period Counterclaim Defendant Amir Kadri, who had been appointed as Secretary of the organization, did not attempt to schedule any special meetings consistent with

his fiduciary duty and instead dismissed Counterclaim Plaintiffs' concerns. Accordingly, pursuant to Article III, Section 1 of the Al Madany's bylaws, Counterclaim Plaintiffs believed Counterclaim Defendants had resigned from the board. *See* Bylaws at Art. III, Sec. 1 ("The failure of any Director to attend three consecutive Board of Directors meetings or four Board of Director meetings in total in one calendar year without good cause shown and prior notice to the Secretary shall result in a de facto resignation and loss of status as a member of the Board of Directors.")

Counterclaim Defendants commenced this action on or about July 31, 2018 by filing their Complaint (Doc. No. 100.31) and Motion for Temporary Injunction (Doc. No. 100.38) requesting that the Court (1) declare that they are members of the board of directors and officers of Al Madany; (2) order Counterclaim Plaintiffs "to cease acting on behalf of Al Madany without the consideration of the Individual Plaintiffs . . ."; (3) order Counterclaim Plaintiffs to turn over all documents and communications with respect to their actions and activities as members of the Al Madany Board of Directors; and (4) that the appointment of any individual to the Board to fill the seats vacated Counterclaim Defendants be declared null and void.

On December 11, 2018, the Court granted Counterclaim Defendants' Application for Temporary Injunction. *See* Memorandum of Decision (Doc. No. 115.00). The Court concluded that Ms. Asaduddin did not have the authority to call a special meeting and, therefore, Counterclaim Defendants could not be penalized under Article 3, Section 1 of the bylaws for failing to attend meetings which were not duly called. *Id.* at 9. Accordingly, the Court ordered that Counterclaim Plaintiffs cooperate with Counterclaim Defendants in order to reinstate them to the Board and to cease acting on behalf of Al Madany without the participation of Counterclaim Defendants. *Id.* at 10-11.

Consistent with the Court's decision, certain members of Al Madany requested a special meeting under the bylaws to remove Mr. Shah. Counterclaim Plaintiffs represented the concerns of these members to the rest of the Board. Counterclaim Defendants responded by making every attempt to obstruct the members. Then, at the beginning of the Islamic month of Ramadan, on May 7, 2019, Counterclaim Defendants called a special meeting of the Board and summarily voted to eject Counterclaim Plaintiffs from the Board. Counterclaim Defendants called a special meeting under the vague and dubious agenda "to obtain assurances from all board members that they will abstain from conduct detrimental and injurious to the board of Al Madany and its officers." At the meeting Mr. Shah read a charge sheet, which included Counterclaim Plaintiffs' concerns with his leadership, and stated "it's just not working out." Mr. Shah then called a vote without any further discussion and Counterclaim Defendants' voted to remove Counterclaim Plaintiffs. On Tuesday May 28, 2019, Mr. Shah announced via email to some of Al Madany's members that Razwan Ahmed and Imran Khan had been appointed to the Board in place of Defendants.

## **II. ARGUMENT**

A temporary injunction is granted at the outset or during the pendency of litigation to forbid performance of threatened acts until the court reaches a decision on the merits. *See, e.g., Town of Vernon v. Bridgepoint Funding All., LLC*, No. TTDCV135005776S, 2013 WL 5969207, at \*1 (Conn. Super. Ct. Oct. 21, 2013) *citing Deming v. Bradstreet*, 85 Conn. 650, 659 (1912)). The purpose of a temporary injunction is to preserve the status quo until, upon a final hearing, the court may grant full relief. *Stamford v. Kovac*, 228 Conn. 95, 101-102 (1993). In order to grant a temporary injunction, the Court must find that (1) the party has no adequate legal remedy; (2) the party would suffer irreparable injury absent a temporary injunction; (3) the party

is likely to prevail on the merits; and (4) the balance of the equities favors the party seeking the injunction. *Vegliante v. Town of E. Haven*, No. CV064021562, 2007 WL 1120565, at \*2 (Conn. Super. Ct. Mar. 29, 2007) citing *Waterbury Teachers Association v. Freedom of Information Committee*, 230 Conn. 441, 446, (1994).

This Court should grant the Counterclaim Plaintiffs' Application for a Temporary Injunction because the Counterclaim Plaintiffs have no adequate legal remedy, will suffer irreparable injury absent an injunction, and is likely to prevail on the merits. Moreover, the balance of the equities clearly favors granting a temporary injunction to maintain the status quo and to ensure that Counterclaim Defendants will run Al Madany without Counterclaim Plaintiffs' input and authority.

**A. Counterclaim Plaintiffs Are Likely To Prevail On The Merits**

Pursuant to Article III, Section 1, the Board of Directors may, by a majority vote of all directors then in office, remove a director, *but only for good cause shown*. In *Slifkin v. Condec Corp.*, the Appellate Court defined "good cause" as follows, "'Good cause, as distinguished from the subjective standard of unsatisfactory service, is defined as [s]ubstantial reason, one that affords a legal excuse ... [l]egally sufficient ground or reason.'" 13 Conn. App. 538, 549 (1988) (quoting Black's Law Dictionary (5th ed. 1979)). "'Good cause' or '[j]ust cause' substantially limits employer discretion to terminate, by requiring the employer, in all instances, to proffer a proper reason for dismissal, by forbidding the employer to act arbitrarily or capriciously.'" *Id.* (quoting *Sheets v. Teddy's Frosted Foods, Inc.*, 179 Conn. 471, 475 (1980)); *see also Madigan v. Housing Authority of Town of East Hartford*, 156 Conn.App. 339, 356-57 (2015) ("[T]he reason or reasons for termination must be substantial."). "A reason that is less than substantial would be an improper reason for dismissal, i.e., arbitrary and capricious." *Stone Key Group, LLC v. Taradash*, No. X08FSTCV166029872S, 2018 WL 6314667, at \*17.

Counterclaim Plaintiffs were not removed for good cause. To the contrary, Counterclaim Plaintiffs were voted off the Board in direct retaliation for their (1) attempts to obtain financial statements of the organization since these have not been provided since at least January 2019, (2) attempts to address legitimate concerns about Mr. Shah's status as a board member and officer in light of his criminal conviction, and (3) opposing the appointment of Plaintiff's current counsel as counsel for Al Madany in a separate action (FST-CV19-5021346-S) because of a conflict. At the May 7<sup>th</sup> special meeting, Mr. Shah read a charge sheet, listing various false, pretextual, and vague purported bases for removing Counterclaim Plaintiffs from the Board. Mr. Shah concluded by stating "it's just not working out." In an email to some of Al Madany's members, Mr. Shah stated the basis for removing Defendants from the Board was for "detrimental conduct to the Al Madany community."

While Counterclaim Plaintiffs do not dispute that legitimate disagreements existed between themselves and Counterclaim Defendants, board directors have every right to question leadership and constructively question actions that the Board wants to undertake – these are not bases for being removed from the Board. Indeed, board directors are required by their fiduciary duties to do exactly that and to maintain the finances of the organization. Put simply, there is no bases, let alone good cause, for removing Counterclaim Plaintiffs from the Board. Indeed, Counterclaim Plaintiffs have continued to fulfil their Board duties and support numerous Board initiatives without rancor, including, but not limited to: supporting a local family in need with zakat (charity) money; organizing interfaith services in the aftermath of the New Zealand mosque shooting; supporting the youth group to organize events; and giving proper feedback on Imam (minister) contract. Accordingly, Counterclaim Defendants conduct was arbitrary and capricious and without good cause.

**B. The Balance of the Equities are in Counterclaim Plaintiffs' Favor**

The balance of the equities favor Counterclaim Plaintiffs. The conduct of Counterclaim Defendants from the time of their reinstatement up to the May 7, 2019 Special Meeting are indicative of the way Al Madany is being mismanaged for the benefit of their families and their agenda instead of for the whole community. Consistent with Judge Genuario's ruling, certain members of Al Madany took it upon themselves to call a special meeting under the bylaws to remove Mr. Shah and Counterclaim Plaintiffs presented the concerns of these members to the rest of the Board. Counterclaim Plaintiffs raised legitimate concerns about Counterclaim Defendants' conduct and made good faith attempts to have the special meeting demanded by members scheduled consistent with their rights under Al Madany's bylaws. Counterclaim Defendants refused to send out a Notice for the member-petitioned meeting, manipulated the list of voting members, and when a meeting was noticed by a members under Article II, Section 4(2) of the Bylaws, they refused to attend the meeting so a quorum could not be reached.

When the Court reinstated Counterclaim Defendants, the Court urged the parties to work together for the benefit of the community. As evidenced, Counterclaim Defendants have not heeded the Court's advice. Instead of working together to run a non-profit that benefits all members of the community, Counterclaim Defendants have disenfranchised a large percentage of the membership by enacting a coup to overthrow the Counterclaim Plaintiffs. The bylaws do not authorize, and this Court should not permit, Counterclaim Plaintiffs to vote off any director that challenges the majority. There are many diverse viewpoints amongst the Al Madany community and the Board should be representative of those views. By permitting Counterclaim Defendants to summarily vote off Counterclaim Plaintiffs for rightfully questioning leadership

and replacing them with friends and family, the Board will serve the interests of only a select few.

**C. Counterclaim Plaintiffs Will be Irreparably Harmed And Will Have No Adequate Remedy At Law if they Are Not Reinstated to the Board of Al Madany.**

Counterclaim Plaintiffs have no adequate remedy at law and will continue to suffer irreparable harm unless they are reinstated to the Board and the appointments of any other persons, including but not limited to Razwan Ahmed and Imran Khan, to the Board allegedly as successes to the Counterclaim Plaintiffs are vacated and null and void.



### III. CONCLUSION

For all of the foregoing reasons, Counterclaim Plaintiffs move for the following relief:

1. An order reinstating Counterclaim Plaintiffs to their positions on the Board and that the appointments of any persons to the Board of Directors allegedly as successors to Counterclaim Plaintiffs are ordered vacated, and null and void.
2. Such other relief as the Court deems appropriate.

COUNTERCLAIM PLAINTIFFS,  
AZRA ASSADUDIN, MUSHTER MOIN,  
IRFAN VAHORA, KHALID BELHABIB

By /s/ Kathleen E. Dion

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**CERTIFICATION**

This is to certify that a copy of the foregoing was transmitted by email and was mailed, postage prepaid, to the following counsel of record on this 5<sup>th</sup> day of July, 2019:

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/s/ Kathleen E. Dion  
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